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19
20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**

22 CRAIG COLEY,

23 Plaintiff,

24 vs.

25 VENTURA COUNTY; WILLIAM
26 HANEY, SR.; ESTATE OF
27 FREDERICK A. JONES; JAMES
28 HENDERSON; EDWARD VASQUEZ;

CASE NO. 2:18-cv-10385-PA-JDE

**FIRST AMENDED COMPLAINT
FOR:**

**1) 42 U.S.C. § 1983 FOR
DEPRIVATION OF DUE
PROCESS OF LAW AND
VIOLATION OF RIGHT TO A**

1 JAMES SCHWARZ; SANDRA
2 TAYLOR; SHANIN SULLIVAN;
3 SANDRA VANNI; NORM FORT;
4 AND DOES 1–10, INCLUSIVE,

5 Defendants.

**FAIR TRIAL UNDER THE
FOURTEENTH AMENDMENT**

2) **42 U.S.C. § 1983 CIVIL RIGHTS
CONSPIRACY CLAIM**

3) **42 U.S.C. § 1983 CLAIM
PURSUANT TO *BRADY*,
GARCIA, and *MOODY* FOR
FAILURE TO DISCLOSE
MATERIAL EXCULPATORY
EVIDENCE**

4) **42 U.S.C. § 1983 CLAIM FOR
POST-TRIAL SUPPRESSION
OF EXCULPATORY
EVIDENCE**

5) **42 U.S.C. § 1983 SUPERVISORY
LIABILITY CLAIM**

6) **42 U.S.C. §1983 *MONELL*
VIOLATIONS**

7) **NEGLIGENT
SUPPRESSION/WITHHOLDING
OF EVIDENCE**

8) **CALIFORNIA CODE § 815.2
FOR RESPONDEAT SUPERIOR
AND VICARIOUS LIABILITY
INCLUDING FOR NEGLIGENT
SUPERVISION AND TRAINING**

9) **CALIFORNIA CODE § 52.1**

DEMAND FOR JURY TRIAL

1 The Plaintiff Craig Coley, by and through his attorneys, Neufeld Scheck &
2 Brustin, LLP, and Kaye, McLane, Bednarski & Litt, allege as follows:

3 **INTRODUCTION**

4 1. Craig Coley spent nearly thirty-nine years wrongfully imprisoned for a
5 brutal double murder he did not commit.

6 2. On November 22, 2017, after four decades of wrongful incarceration,
7 Mr. Coley received an extraordinary pardon from California Governor Jerry Brown
8 recognizing his actual innocence: “I grant this pardon because Mr. Coley did not
9 commit these crimes.” The Ventura County District Attorney’s Office and the Simi
10 Valley Police Department (“SVPD”) similarly recognized, based on DNA testing,
11 that Mr. Coley was innocent of the underlying murders.

12 3. On November 11, 1978, Rhonda Wicht and her four-year-old son,
13 Donald Wicht, were brutally murdered. SVPD Detective Robert Klamser
14 (“Klamser”) was assigned as the lead investigator. From the outset, Klamser was
15 assisted in the investigation by officials and employees from the Ventura County
16 District Attorney’s Office and the Ventura County Sheriff’s Department
17 (collectively, “Defendants”).

18 4. Shortly after arriving on the scene, SVPD officers interviewed witnesses
19 who reported hearing disturbances from the victims’ apartment beginning around
20 4:30 a.m. the night before. At that time, Mr. Coley was miles away at a Howard
21 Johnson’s restaurant unwinding with other employees after a shift. Despite having
22 an incontrovertible alibi—corroborated by multiple witnesses—Mr. Coley was
23 arrested on the afternoon of November 11, 1978.

24 5. From the moment of his arrest, Mr. Coley maintained his innocence and
25 cooperated with Ventura County and Simi Valley employees, waiving his rights and
26 providing voluntary saliva and blood samples. Mr. Coley also consented to a search
27 of his apartment and his vehicle.
28

1 6. No physical or forensic evidence linking Mr. Coley to the crime was
2 discovered on his person, the clothing he had been seen wearing the night before, or
3 in his vehicle.

4 7. Between his airtight alibi and the utter lack of physical or forensic
5 evidence linking him to the crime, it quickly became apparent that Mr. Coley did not
6 commit these heinous murders.

7 8. But Klamser—a rogue officer with a history of setting up suspects—was
8 determined to implicate Mr. Coley in this crime. To that end, Klamser conspired
9 with Defendants to procure Mr. Coley’s wrongful conviction by engaging in
10 unconstitutional conduct, including but not limited to planting incriminating
11 evidence in Mr. Coley’s apartment, coercing and pressuring a key witness to change
12 the reported time of the crime from 4:30 a.m. to 5:30 a.m. to get around Mr. Coley’s
13 alibi, fabricating a false identification of Mr. Coley’s vehicle, suppressing
14 exculpatory evidence, and engaging in other reckless investigatory misconduct.

15 9. Mr. Coley’s first trial in 1979 ended in a hung jury. Hundreds of
16 community members signed a petition protesting the investigation, and the judge
17 who presided over that trial stated he could not imagine a guilty verdict based on the
18 evidence he had seen.

19 10. But, on the basis of false representations and exculpatory evidence
20 withheld by Defendants and others, the Ventura County District Attorney’s Office
21 remained committed to the prosecution. At Mr. Coley’s second trial, he was
22 wrongly convicted of the Wicht murders and subsequently sentenced to life
23 imprisonment without parole.

24 11. For the next four decades, Mr. Coley continued to proclaim his
25 innocence and fight for his freedom. In 1989, decorated SVPD Detective Michael
26 Bender (“Bender”)—an officer with no preexisting ties to Mr. Coley—became
27 convinced based on his review of the case that Mr. Coley was innocent. Between
28 1989 and 2017, Bender repeatedly informed Ventura County officials and

1 employees of the evidence of Mr. Coley's innocence. But Ventura County officials
2 and employees not only took no action to assist Mr. Coley, they made false
3 representations that substantially prolonged his wrongful incarceration.

4 12. In 1993, Klamser was fired from SVPD for having framed a fellow
5 police officer using the same unconstitutional techniques he applied in Mr. Coley's
6 case. Ventura County officials and employees knew of the circumstances of
7 Klamser's termination and his unconstitutional investigative practices. Nevertheless,
8 they continued to stand behind Mr. Coley's conviction, including opposing his
9 repeated requests for DNA testing and, critically, falsely and baselessly representing
10 that no physical evidence or forensic samples capable of being tested still existed.

11 13. Decades later, after the Governor ordered Mr. Coley's case be
12 reinvestigated in 2016, the new investigator was able to immediately locate the
13 "destroyed" physical evidence. That evidence was promptly tested and definitively
14 excluded Mr. Coley as the perpetrator. Based on this testing and the reinvestigation,
15 Ventura County officials and employees concluded that Mr. Coley was factually
16 innocent of the crimes.

17 14. On November 22, 2017, Mr. Coley was released from prison after
18 Governor Brown granted his petition for clemency and issued an executive pardon.
19 One week later, on November 29, 2017, the Ventura County Superior Court issued
20 an order finding Mr. Coley factually innocent of the crimes and vacated his
21 convictions. The Ventura County District Attorney's Office joined in both motions
22 on that date.

23 15. Shortly after his release, Mr. Coley received a personal apology letter
24 from William Maxwell, the Deputy District Attorney who prosecuted his case. Mr.
25 Maxwell stated: "I am profoundly sorry for what happened to you and for my role in
26 it. . . . They say you are a man of high character. Even though that's true, I don't ask
27 for your forgiveness for this horror. It's too much."
28

1 16. Mr. Coley was 31 when he was first arrested and 70 when he was
2 released from prison; he lost virtually the entirety of his adult life to wrongful
3 imprisonment, including his opportunities to have a family and establish a career.
4 An only child, Mr. Coley lost both of his parents during his horrific ordeal. He was
5 deprived of the ability to care for his father and mother in their old age and felt
6 responsible that they had to spend their savings—money taken from his father’s law
7 enforcement pension—to pay for his legal fees.

8 17. The intentional and reckless acts and omissions of various officers and
9 employees of the Ventura County District Attorney’s Office and the Ventura County
10 Sheriff’s Office—acting in concert with Klamser and various other SVPD officers—
11 caused Mr. Coley to be wrongly convicted for the murders of Rhonda Wicht and
12 Donald Wicht and to remain wrongly imprisoned for decades thereafter for these
13 crimes.

14 18. Absent the actions of Defendants and their co-conspirators, Mr. Coley
15 would not have been wrongly convicted for the Wicht murders on January 3, 1980;
16 would not have been sentenced to life imprisonment without parole on February 26,
17 1980; would not have lost his subsequent appeals; would have had access to forensic
18 material exculpatory material decades earlier; and would have secured a release
19 from his wrongful imprisonment while he still had life ahead of him, instead of
20 spending over thirty-nine years wrongly incarcerated.

21 19. As a direct result of Defendants’ misconduct, Mr. Coley suffered injuries
22 and damages including bodily and personal injuries; pain and suffering; mental
23 anguish; emotional distress; loss of income; infliction of physical illness; inadequate
24 medical care; humiliation of himself and his family; degradation; restrictions on all
25 forms of personal freedom including but not limited to diet, sleep, personal contact,
26 educational opportunity, and family relations.

27 20. Mr. Coley now seeks redress for the egregious misconduct that cost him
28 the best years of his life.

JURISDICTION AND VENUE

21. This action is brought by Craig Coley (“Plaintiff” or “Mr. Coley”) pursuant to 42 U.S.C. §1983.

22. This Court has jurisdiction under 28 U.S.C. §1343(4) for violations of the 1871 Civil Rights Enforcement Act, as amended, including 42 U.S.C. §1983, and under 28 U.S.C. §1331.

23. The acts, errors, and omissions complained of all took place within the Central District of California. Therefore, venue lies in this District pursuant to 28 U.S.C. §1391(b)(2).

JURY DEMAND

24. Plaintiff demands a trial by jury on all issues and claims set forth in this Complaint pursuant to the Seventh Amendment of the United States Constitution and Federal Rule of Civil Procedure 38(b).

PARTIES

25. Plaintiff Craig Coley resided within the jurisdiction of the State of California at all times herein alleged.

26. Defendant Ventura County is, and at all times herein alleged was, a public entity organized and existing under the laws of the State of California. The Ventura County District Attorney’s Office and the Ventura County Sheriff’s Office are, and at all times herein alleged were, agencies of Ventura County.

27. At times relevant herein, Defendant William Haney was a Deputy District Attorney at the Ventura County District Attorney’s Office acting under color of law. For the conduct regarding Mr. Haney alleged herein, he was acting in either an investigative or administrative capacity and was not acting in a prosecutorial capacity. He is sued in his individual capacity.

28. Upon information and belief, Frederick A. Jones is deceased. At all relevant times herein Frederick A. Jones was a Deputy District Attorney with the Ventura County District Attorney’s Office acting under color of law. During the

1 time Frederick A. Jones was investigating Mr. Coley's case, he acted outside the
2 scope of his prosecutorial duties and was functioning in an investigatory capacity.
3 Defendant Estate of Frederick A. Jones is entitled to defense and indemnification by
4 Ventura County. California Probate Code § 550 *et seq.* permits claims directly
5 against an indemnified estate without the need to join the decedent's personal
6 representatives or successor in interest as a party. To the extent that a personal
7 representative or successor in interest is a necessary party, the identity of that person
8 is currently unknown to Plaintiff and is sued herein as a Doe Defendant.

9 29. At all times relevant herein, Defendants James Henderson and Edward
10 Vasquez were Investigators employed by the Ventura County District's Attorney's
11 Office acting under color of law. They are sued in their individual capacities.

12 30. At all times relevant herein, Norm Fort¹ was a Criminologist at the
13 Ventura County Sheriff's Crime Laboratory acting under color of law. He is sued in
14 his individual capacity.

15 31. At all times relevant herein, James Schwarz, Sandra Taylor, Shanin
16 Sullivan, and Sandra Vanni were officers of the Ventura County Sheriff's
17 Department acting under color of law. They are sued in their individual capacities.

18 32. Plaintiff is informed and believes and thereon alleges that Defendants
19 sued herein as Does 1 through 10, inclusive, were employees of Ventura County,
20 and were at all relevant times acting in the course and scope of their employment
21 and agency and under color of law. Each Defendant is the agent of the other.
22 Plaintiff alleges that each of the Defendants named as a "Doe" was in some manner
23 responsible for the acts and omissions alleged herein, and Plaintiff will ask leave of
24 this Court to amend the Complaint to allege such names and responsibility when
25 that information is ascertained.

26
27
28

¹ Formerly Norma Fort.

GENERAL ALLEGATIONS

33. Plaintiff is informed and believes, and herein alleges that, at all times herein mentioned, each of the Defendants was the agent and/or employee and/or co-conspirator of each of the remaining Defendants, and with Klamser and other employees and agents of the Simi Valley Police Department, and in taking the actions hereinafter alleged, was acting within the scope of such agency, employment and/or conspiracy, and with the permission and consent of other co-Defendants.

34. Each paragraph of this Complaint is expressly incorporated into each cause of action that is a part of this Complaint.

35. The acts and omissions of the Defendants were malicious, callous, oppressive, wanton, reckless, grossly negligent, negligent, and/or deliberately indifferent with respect to the rights of Mr. Coley.

I. AGENTS AND EMPLOYEES OF VENTURA COUNTY WERE AWARE THAT KLAMSER ROUTINELY ENGAGED IN UNCONSTITUTIONAL CONDUCT AND WAS UNFIT TO BE AN SVPD OFFICER

36. Robert Klamser was the lead SVPD detective in the Wicht murder case, for which Mr. Coley was wrongfully convicted. Immediately prior to joining the SVPD, Klamser was rejected by the Los Angeles Police Department as psychologically unfit to be a police officer. He was nevertheless hired by SVPD in 1976, only a year thereafter. Klamser then served as an SVPD officer and detective for nearly 20 years until he was terminated based on his history of unconstitutional practices dating back to before the Wicht murders and because he was determined to be psychologically unfit to serve as a police officer.

37. By 1978, with less than two years of experience as an officer, Klamser was assigned to the position of lead detective—including in the high-profile Wicht double homicide—despite the fact that it was widely known within the SVPD that he routinely engaged in unconstitutional conduct, including manufacturing and using false evidence, withholding evidence, and manipulating evidence to establish

1 guilt against those he considered guilty of crimes. In that capacity, he worked
2 frequently with officials and employees of the Ventura County District Attorney's
3 Office ("VCDAO"), including prosecutors and investigators, and the Ventura
4 County Sheriff's Office ("VCSO"), including deputies and criminologists.

5 38. On information and belief, it was well known within the Ventura County
6 District Attorney's Office and the Ventura County Sheriff's Office, including by the
7 Defendants named herein, that Klamser routinely engaged in unconstitutional
8 conduct, including manufacturing and using false evidence, withholding evidence
9 and manipulating evidence to establish guilt against those he considered guilty of
10 crimes. Nonetheless, said Defendants regularly used and relied on false evidence
11 presented by Klamser without adequately investigating and verifying the evidence
12 he presented. Similarly, said Defendants assumed without any or adequate inquiry
13 or investigation that Klamser had produced to them all exculpatory evidence.

14 **II. THE WICHT MURDERS**

15 39. During the early morning hours of November 11, 1978, Rhonda and
16 Donald Wicht were attacked and murdered in their apartment by an as-yet
17 unidentified male assailant or assailants.

18 40. The attack on the Wichts began at or before 4:30 a.m., as neighbors
19 heard loud screams coming from their apartment at that time. Rhonda Wicht was
20 raped, beaten, and strangled to death with her body left on her bed; her 4-year-old
21 son Donald was smothered and asphyxiated in his bed. The assailant(s) continued
22 their attack for at least an hour, ultimately leaving at approximately 5:30 a.m.

23 41. The night she was murdered, Ms. Wicht was expecting at least one male
24 visitor: James Ireton, a man she had been seeing and who frequently partied at her
25 apartment with two other men, Robert Bowyer—Ms. Wicht's cousin—and David
26 Mobley. A neighbor also told SVPD officers at the outset of the investigation that
27 Ms. Wicht was expecting all three men the evening she was murdered. None of
28 these men had alibis for the time of the murder. Ireton said he planned to go to Ms.

1 Wicht's apartment but then decided at the last minute to drive to Los Angeles where
2 he "drove around" and neither went anywhere in particular nor saw anyone. His
3 fingerprints were found on a whiskey bottle and on the inside of the kitchen window
4 in Ms. Wicht's apartment. Bowyer similarly had no alibi, claiming he was asleep in
5 his own room at the time of the murder after having been out drinking that night.
6 But semen found underneath Ms. Wicht's body on her bloody bedsheet was
7 determined to have come from a man with Type "O" blood. Bowyer is a Type "O"
8 secretor.

9 42. At the time of the murders, Mr. Coley was miles away at a Howard
10 Johnson's surrounded by co-workers until past 4:00 a.m. He then offered to drive a
11 co-worker home around 4:30 a.m. and was nowhere near the Wicht apartment when
12 these heinous murders were taking place. In addition to his airtight alibi, Mr. Coley
13 is a Type "A" secretor and so could not have been the source of the semen found
14 under Ms. Wicht's body. Rhonda Wicht was Mr. Coley's friend and sometimes
15 girlfriend, and four-year-old Donald Wicht was like a son to him. As DNA testing
16 has now conclusively shown, Mr. Coley had nothing to do with these horrible
17 crimes and was truly devastated by their murders.

18 **III. VENTURA COUNTY DEFENDANTS CONSPIRE WITH**
19 **KLAMSER TO IGNORE EXCULPATORY EVIDENCE AND**
20 **MANIPULATE INCULPATORY EVIDENCE TO PROSECUTE**
21 **AND WRONGFULLY CONVICT MR. COLEY**

22 43. The bodies of Rhonda and Donald Wicht were discovered on the
23 morning of November 11, 1978. Police responded to the scene at approximately
24 11:00 a.m. and promptly interviewed several neighbors, including Glenn Watkins.

25 44. Mr. Watkins, who lived directly downstairs from the Wichtes, told
26 Officer Bingaman, in the presence of another SVPD officer, that he had been
27 awakened by screaming from Rhonda's apartment at 4:30 a.m.

28 45. Klamser reported to the scene shortly after and despite having been on
the force for less than two years was assigned as lead detective on this brutal double

1 homicide. VCSD Criminologist Fort and Deputy Taylor were present with Klamser
2 on the scene for the duration of the day. Employees and officials from the VCDAO
3 were also present and in close contact with Klamser throughout the day.

4 46. Despite his incontrovertible alibi and no forensic evidence or witnesses
5 linking him to the crime, Mr. Coley was wrongly accused and arrested for the Wicht
6 murders within hours of the bodies being discovered. His wrongful arrest was due to
7 the fabrication or withholding of evidence and other investigative misconducted
8 committed by Defendants, acting both individually and in concert with Klamser and
9 other SVPD officers not named herein.

10 47. By the afternoon of November 11, 1978, Klamser and Ventura County
11 officials and employees—including Deputy District Attorney William Maxwell and
12 DA Investigators Henderson and Vasquez—were aware that Mr. Coley had an
13 irrefutable alibi until at least 4:45–5:00 a.m. Mr. Coley himself told SVPD officers
14 and DDA Maxwell that he had been at the Howard Johnson’s with several witnesses
15 until 4:30 a.m., and then gave a bus boy a ride home after that.

16 48. Contemporaneously, upon hearing of Mr. Coley’s arrest for the Wicht
17 murders, Stanley Stoneburg, the manager of that Howard Johnson’s restaurant,
18 reached out to provide officials with the exact same information. In a tape-recorded
19 interview at 2:00 p.m. on November 11, 1978—less than a half hour after Mr.
20 Coley’s wrongful arrest—Mr. Stoneburg independently confirmed that Mr. Coley
21 left the Howard Johnson’s at 4:30 a.m., then drove a bus boy home from work. The
22 bus boy, Miguel Almanza Ayala, was then interviewed by DA Investigator Vasquez
23 and confirmed this exact sequence of events: that he had punched out his timecard at
24 4:30 a.m., and that Mr. Coley gave him a ride home because it was raining that
25 night.

26 49. Less than two hours after learning Mr. Coley had an alibi until at least
27 4:45 –5:00 a.m., meaning time of death was a critical fact in the investigation,
28 VCSO Criminologist Fort, Deputy Taylor, and Klamser had Rhonda and Donald’s

1 bodies removed from the crime scene and entered the apartment to collect physical
2 and forensic evidence. Despite ample opportunity to do so, Fort and Taylor failed to
3 collect even the most basic information necessary to determine time of death such as
4 ambient air temperature and body temperature. Nor did Fort or Klamser—both of
5 whom were present at the autopsy of Rhonda Wicht—direct or request the Ventura
6 County Medical Examiner to estimate time of death. Defendants were fully aware
7 when they declined to take these basic investigative steps of the exculpatory value
8 of that information to Mr. Coley.

9 50. For the duration of the collection of physical and forensic evidence from
10 the crime scene on November 11, 1978, Criminologist Fort, Deputy Taylor, and
11 Klamser were the only individuals inside, as SVPD officers had secured the scene
12 and were logging every individual's entry and exit. The collection efforts lasted
13 nearly five hours, during which time Fort, Taylor, and Klamser were together. Upon
14 information and belief, Klamser with the help and/or knowledge of Defendants Fort
15 and Taylor removed a key piece of physical evidence from the Wicht apartment: a
16 Mickey Mouse T-shirt belonging to Donald Wicht that was visibly stained with
17 blood and other substances. The presence of this shirt and its removal was not
18 documented in any reports or evidence inventories prepared by Fort or Taylor from
19 their search of the Wicht apartment on November 11, 1978.

20 51. On November 12, 1978, Klamser prepared an affidavit for entry into Mr.
21 Coley's apartment. At the time he prepared the affidavit, Klamser and Defendants
22 were well aware that Mr. Coley had an alibi at the time of the murders that had been
23 corroborated by other witnesses. Klamser deliberately omitted these exculpatory
24 details from his affidavit for a search warrant. Defendants knowingly or recklessly
25 allowed and relied on Klamser's affidavit without taking any steps to correct these
26 material omissions or to otherwise ensure that the court reviewing the affidavit was
27 apprised of the full circumstances and known evidence regarding the Wicht murders
28 and Mr. Coley.

1 52. VCSO Criminologist Fort, Deputy Schwarz, and Klamser executed the
2 search warrant of Mr. Coley's apartment in the afternoon of November 12, 1978.
3 Defendants and Klamser were the only individuals inside Mr. Coley's apartment and
4 were together for the duration of that search. No blood or physical evidence was
5 located on any of Mr. Coley's clothing, including the clothing that he was seen
6 wearing until at least 4:40 a.m. the morning of the murder. Recognizing that Mr.
7 Coley had both an airtight alibi and no physical or forensic evidence linking him to
8 the murder, on information and belief, Klamser planted the stained Mickey Mouse
9 T-shirt from the Wicht apartment into the middle of a pile of Mr. Coley's laundry.
10 On further information and belief, Defendants Fort and Schwarz either assisted
11 Klamser in so doing or were aware of Klamser's planting or other improper
12 handling of the T-shirt and recklessly disregarded it. Fort and Schwarz then helped
13 cover up the planting of this incriminating evidence by falsely reporting in written
14 and oral reports to the prosecutor that the Mickey Mouse T-shirt was discovered by
15 law enforcement in Mr. Coley's apartment near the bottom of a pile of laundry.

16 53. VCSO Defendants Fort, Schwarz, and Taylor also accompanied Klamser
17 on additional unlawful searches including of Mr. Coley's vehicle on November 13
18 and of Mr. Coley's apartment again on November 16. They were or should have
19 been aware of Klamser's material omissions and distortions of the evidence
20 contained in the affidavits that formed the basis of the searches in which they
21 participated. Defendants and Klamser found no evidence whatsoever tying Mr.
22 Coley to the crime, including any inculpatory physical or forensic evidence. No such
23 evidence was found during the search of Mr. Coley's vehicle.

24 54. At that point, Mr. Coley had been arrested but Defendants and Klamser
25 were faced with a dearth of true evidence implicating him as well as compelling
26 alibi evidence. Defendants recognized that they had no case against Mr. Coley and
27 so conspired with Klamser to manipulate the evidence to support a prosecution and
28 ultimately a conviction and life sentence—events which marred Mr. Coley's life

1 forever. Upon information and belief, the misconduct engaged in by Klamser and
2 Defendants, acting both individually and in concert, included but is not limited to:

- 3 a. Taking one of 4-year-old Donald Wicht's T-shirts from the crime
4 scene—which was visibly stained with semen and blood—and planting it
5 among the evidence collected from Mr. Coley's home the next day.
- 6 b. Falsely representing in written and oral reports that the T-shirt had been
7 found in Mr. Coley's apartment at the bottom of his dirty laundry rather than
8 taken from the crime scene.
- 9 c. Suppressing hair and other forensic evidence that tended to exculpate
10 Mr. Coley and inculcate likely perpetrators Ireton and Bowyer.
- 11 d. Coercing, manipulating, and fabricating a statement from Glenn Watkins
12 by getting him to change the time at which he had reported to multiple SVPD
13 officers first hearing screams from the Wicht apartment from
14 4:30 a.m. (when Coley had an airtight alibi) to 5:30 a.m. DA Investigator
15 Henderson—both individually and in conjunction with Klamser—conducted
16 multiple unrecorded interviews of Mr. Watkins concerning the critical time
17 at which Mr. Watkins heard screams from the Wicht apartment. Those
18 interviews were not taped, not memorialized in handwritten notes, and not
19 documented in any formal reports. It was only after Mr. Watkins changed the
20 reported time to 5:30 a.m. that DA Investigator Henderson recorded that
21 interview on January 15, 1979. In a post-trial interview, Mr. Watkins stated
22 that he first heard screams at 4:30 a.m. and that he had never told
23 investigators otherwise. DA Investigator Henderson never disclosed this
24 exculpatory information.
- 25 e. On information and belief, DA Investigators Henderson and Vasquez
26 also made promises to Watkins prior to his trial testimony in exchange for
27 him testifying falsely against Mr. Coley, which evidence was never
28

1 disclosed. On information and belief, these promises included expungement
2 of Mr. Watkins's record to provide his altered evidence.

3 f. Destroying, suppressing, and/or failing to test exculpatory physical and
4 forensic evidence that was to be tested and retained by the Ventura County
5 Sheriff Office's Crime Laboratory both prior to and after Mr. Coley's
6 conviction.

7 g. Ignoring, withholding, or otherwise, recklessly failing to investigate
8 evidence inculcating other more likely suspects, including but not limited to
9 Defendant DA Investigator Vasquez having interviewed another witness,
10 Barbara Williams-Barone, who said that Rhonda Wicht was expecting three
11 men at her apartment that night—Bowyer, Ireton, and Mobley—all of whom
12 had spent time with the victims just prior to the murders, all of whom were
13 connected to the murder scene via forensic and fingerprint evidence, and
14 none of whom had alibis.

15 h. Suggesting, coercing, and fabricating an identification of Mr. Coley's
16 truck from another neighbor and witness, Debbie Villafranca. Ms.
17 Villafranca was a notoriously unreliable and biased witness: a drug dealer
18 and user who claimed she peeked out from her curtains during the pre-
19 sunrise hours of a rainy night, while not wearing her glasses, and saw Mr.
20 Coley's truck leaving the apartment. Although Ms. Villafranca never looked
21 at a clock at the time, she later estimated she saw this truck leaving around
22 5:30 or 6:00 a.m. However, Ms. Villafranca was unable to identify a photo of
23 Mr. Coley's truck taken in broad daylight when presented in a photo line-up.
24 Nor could she identify the sound of Mr. Coley's truck—which she claimed
25 was unique and known to her—when played a tape recording of his truck's
26 engine. On November 17, 1978, Defendant DDA Jones—acting in an
27 investigatory capacity—directed Klamser to conduct an incredibly
28 suggestive "reenactment" to procure an identification of Mr. Coley's truck—

1 including having Mr. Coley's vehicle brought to the scene, towing a vehicle
2 from the place he was informed it had been the night of the crime, and
3 placing Mr. Coley's truck within Ms. Villafranca's line of sight in a manner
4 it physically could not have been on the night of the murders. Only through
5 this suggestion and manipulation were Defendants and Klamser able to
6 obtain a completely unreliable identification of Mr. Coley's truck from Ms.
7 Villafranca.

8 i. Upon information and belief, DA Investigators Henderson and/or
9 Vasquez coerced and/or threatened Ms. Villafranca's testimony at Mr.
10 Coley's trial.

11 j. Fabricating evidence from Bonnie Castillo, Mr. Coley's landlady, to
12 support a fantastic story by asserting that Mr. Coley had disposed of certain
13 inculpatory evidence after Defendants' searches of Mr. Coley's home and
14 vehicle with Klamser failed to uncover any such inculpatory evidence.
15 Klamser, in concert with certain Defendants, hypothesized that Mr. Coley
16 had stolen Ms. Castillo's car, driven that car to a nearby pond and disposed
17 of his clothing and other criminal evidence there. This theory was advanced
18 even though it was known to Klamser and Defendants what Mr. Coley was
19 wearing at 4:30 a.m. on the night of the murders, and these clothing items
20 were in Mr. Coley's apartment and collected there by Defendants Fort and
21 Schwarz, and none had any forensic evidence on them. At Klamser's
22 direction, the Ventura County Search and Rescue Team searched the pond.
23 No evidence was located. Nevertheless, in support of this illogical theory,
24 Klamser and DA Investigator Vasquez conducted interviews of Ms. Castillo
25 and falsely reported that (1) Ms. Castillo had identified a Volkswagen key on
26 Mr. Coley's keychain, which had allegedly been misplaced, as a key
27 belonging to her husband; and (2) that this key fit the ignition on Ms.
28 Castillo's Volkswagen. Ms. Castillo had in fact stated only that one of the

1 keys “looked like” a key to her old house, and it was known that the
2 Volkswagen key fit Mr. Coley’s ex-wife’s car, not Bonnie Castillo’s. Given
3 his involvement in the investigation, Investigator Vasquez knew or should
4 have known that this information was false.

5 55. Either sufficient or just cause to arrest and/or prosecute Mr. Coley never
6 existed, or such cause was lost at some point prior to Mr. Coley’s trial or retrial
7 which ended in his conviction in 1980. The charges against him, and the evidence
8 presented to justify them, were the product of Defendants’ use of manipulated, false
9 and fabricated evidence, and suppression of exculpatory evidence.

10 56. On information and belief, Defendants and Klamser decided
11 immediately, and without proper investigation, that Mr. Coley was guilty of the
12 Wicht murders. When the evidence did not support this theory because Mr. Coley
13 was innocent and had an ironclad alibi for the time of the murders, Defendants
14 conspired with Klamser to suppress and destroy exculpatory evidence throughout
15 the investigation, and openly take other wrongful actions throughout the
16 investigation, at trial, at sentencing, and afterwards to convict him, to secure a life
17 sentence without parole, and to ensure Mr. Coley would never be released from his
18 imprisonment after conviction.

19 57. Mr. Coley truthfully proclaimed his innocence during the investigation
20 and throughout his imprisonment. He cooperated with authorities from the
21 beginning, waiving his *Miranda* rights, consenting to searches of his property, and
22 providing a true and verifiable alibi.

23 58. Because of the lack of evidence against him, Mr. Coley’s first trial ended
24 in a hung jury on April 13, 1979.

25 59. Hundreds of community members insisted on Mr. Coley’s innocence,
26 including signing petitions insisting on a fair and adequate investigation into the
27 murders—unfortunately to no avail. Mr. Coley had no criminal record prior to his
28 conviction and had always been gainfully employed. The judge who presided over

1 the first trial was reported as saying he could not imagine a guilty verdict based on
2 the evidence presented at that trial. Nevertheless, in reliance on the false information
3 provided by Defendants and their co-conspirators, the VCD AO reinstituted criminal
4 charges and retried Mr. Coley later in 1979.

5 **IV. MR. COLEY IS WRONGFULLY CONVICTED**

6 60. Defendants, in conjunction with Klamser, continued to engage in
7 wrongful investigatory misconduct after the first trial ended. Despite the fact that
8 Ventura County had exculpatory evidence and impeachment evidence that would
9 have saved Mr. Coley from conviction, Ventura County officials and employees
10 wrongfully withheld this evidence from Mr. Coley and his attorney in 1979 and
11 1980. As a result, Mr. Coley could not prove his innocence and the retrial ultimately
12 ended in a conviction on January 3, 1980.

13 61. When Mr. Coley—an innocent man—was found guilty, he sustained
14 shock. Being wrongfully convicted of a crime he did not commit caused Mr. Coley
15 great physical illness and great mental anguish. The January 3, 1980 wrongful
16 conviction was an event that forever defamed his character and humiliated him
17 publicly. Whether Ventura County expected or intended to convict an innocent man
18 or to cause these grave injuries, Ventura County is nonetheless legally responsible
19 because Mr. Coley's conviction was ultimately the result of the County's deliberate
20 indifference or reckless policies and procedures, its failure to train and supervise its
21 employees, and/or its negligent hiring and/or supervision.

22 **V. MR. COLEY IS WRONGFULLY SENTENCED TO LIFE
IMPRISONMENT WITHOUT PAROLE**

23 62. After conviction but before sentencing, Mr. Coley and his attorneys
24 sought impeachment and exculpatory evidence that would have mitigated any
25 sentence.

26 63. However, Ventura County officials and employees, in concert with
27 Klamser, continued to wrongfully withhold exculpatory and impeachment evidence
28

1 in their possession despite requests from his attorneys and continued cries from the
2 community that Mr. Coley was innocent and should not be punished.

3 64. Ventura County and the individual Defendants thereby acted with
4 deliberate indifference, recklessness, or negligence in failing to provide Mr. Coley
5 exculpatory evidence or other evidence of his good character, and instead defamed
6 him to the sentencing court and to the public.

7 65. As a result, on February 26, 1980, the Superior Court of Ventura County
8 denied Mr. Coley's application for probation, and instead ordered Mr. Coley to serve
9 two concurrent life sentences without the possibility of parole based on Ventura
10 County's submissions.

11 66. As a result of this event, Mr. Coley was devastated and locked up for life
12 with dangerous people who wanted to and did do harm to him, causing Mr. Coley
13 grievous injuries in subsequent years. Mr. Coley's February 26, 1980 sentencing
14 was an event that forever invaded Mr. Coley's right to live a private life.

15 67. Whether or not Ventura County expected or intended that an innocent
16 man would be sentenced to life in prison without the possibility of parole, or to
17 cause the injuries that Mr. Coley sustained, Ventura County is nonetheless legally
18 responsible for his life sentence because it was ultimately the result of Ventura
19 County's deliberate indifference or reckless policies and procedures, its failure to
20 train and supervise its employees, and/or its negligent hiring and/or supervision.

21 **VI. VENTURA COUNTY DESTROYS AND SUPPRESSES**
22 **EXCULPATORY EVIDENCE WITH FULL KNOWLEDGE OF**
23 **MR. COLEY'S ENTITLEMENT TO SUCH EVIDENCE**

24 68. Mr. Coley continued to assert his innocence and relentlessly seek release
25 from his horrific situation, filing numerous post-conviction appeals, post-conviction
26 motions, petitions for writ of habeas corpus, and petitions for clemency throughout
27 his decades of wrongful imprisonment. Ventura County employees and officials
28 knew of these efforts and the basis for them because Mr. Coley and his attorneys

1 continued to reach out to Ventura County and request the physical exculpatory
2 evidence and impeachment evidence in their possession.

3 69. Despite Ventura County employees and officials' knowledge of these
4 efforts, and despite the knowledge of certain Defendants that there was physical and
5 documentary evidence that could establish Mr. Coley's innocence, on October 16,
6 1985, an Order for Disposition of Criminal Evidence was filed in the Superior Court
7 of California in Ventura County, with Ventura County's knowledge and consent,
8 which included an order to destroy all physical evidence from the Wicht murder
9 case. On November 26, 1985, over 500 pieces of physical evidence—including
10 exculpatory evidence that could have demonstrated Mr. Coley's innocence—was
11 destroyed without notice to Mr. Coley or his attorney. On information and belief,
12 certain of Ventura County's agents and employees as described above were, or
13 should have been, aware that there was a likelihood that the destroyed physical
14 evidence contained exculpatory evidence, such destruction exhibited a reckless
15 disregard for Mr. Coley's rights and the truth (and were at least negligent).

16 70. Ventura County and/or various of the Defendants, or both, are liable for
17 this wrongful destruction and its failures to inform Mr. Coley and his attorneys of its
18 impending destruction. Ventura County is also liable for failing to preserve critical
19 evidence and failing to intervene in the destruction of that evidence because it had
20 explicit notice of Mr. Coley's attempts to secure his release. This failure to intervene
21 was especially egregious in light of Ventura County and individual Defendants'
22 growing knowledge that Klamser routinely fabricated inculpatory evidence and
23 suppressed exculpatory evidence in his investigations.

24 71. On September 19, 1986, Mr. Coley filed a petition for post-conviction
25 relief that sought materials and exculpatory evidence in Ventura County's
26 possession that would have proved his innocence and released him from his
27 wrongful imprisonment. Even despite its destruction of exculpatory physical
28 evidence, Ventura County employees and officials were aware of and/or easily able

1 locate exculpatory forensic evidence responsive to Mr. Coley's request, as that
2 forensic evidence remained stored in the same private laboratory that VCSO
3 employees sent the evidence to in 1979 for testing. Upon information and belief,
4 Ventura County employees and officials willfully concealed the location of and/or
5 recklessly failed to do even the most minimal search which would have revealed the
6 location of this exculpatory forensic evidence to which Mr. Coley was legally and
7 constitutionally entitled. As a result, Ventura County violated Mr. Coley's right to
8 rely on this evidence to support his post-conviction motion for release, and his
9 habeas petition was denied on January 7, 1987.

10 72. Mr. Coley appealed that denial less than a month later, on February 26,
11 1987. Again, Ventura County knew of Mr. Coley's efforts to overturn his appeal but
12 breached its legal and constitutional obligations to turn over the evidence and/or the
13 location of that evidence despite knowing and/or being able to easily determine the
14 location of that evidence since 1979. The actions, inactions, errors, and/or omissions
15 taken by Ventura County employees and officials during this time ensured that Mr.
16 Coley would once again lose his appeal. His appeal was denied on April 1, 1987,
17 causing Mr. Coley to suffer continued wrongful imprisonment, mental anguish,
18 embarrassment, humiliation, emotional distress, defamation of character, and
19 violation of property rights.

20 73. In 1988, Mr. Coley's father, Wilson Coley—a retired Los Angeles
21 Police Department officer—died of a heart attack. Because Mr. Coley was wrongly
22 incarcerated, he could not be by his father's side when he passed, could not attend
23 his funeral, and could not bury him. Mr. Coley's father passed away before he could
24 see his only son exonerated and freed from prison. This devastating loss and
25 deprivation of familial relationships with his father and grieving mother caused Mr.
26 Coley to suffer extreme and severe mental anguish, anxiety, shock, and humiliation
27 because of the wrongful actions of Ventura County and its officials and employees.
28

VII. VENTURA COUNTY IGNORES OR SUPPRESSES CLEAR EVIDENCE OF MR. COLEY'S ACTUAL INNOCENCE, INCLUDING EVIDENCE OF KLAMSER'S PRACTICE OF FRAMING INNOCENT INDIVIDUALS

74. In 1989, Michael Bender, a decorated SVPD officer with no ties to Mr. Coley, began looking into the investigation of the Wicht murders because of Klamser's growing reputation in the Department for investigatory misconduct, including fabricating inculpatory evidence and suppressing exculpatory evidence.

75. Beginning in 1989, Bender reported Klamser's unlawful and unethical behavior to SVPD Chief Paul Miller and to the City Attorney. During this same time period, SVPD was internally investigating Klamser's conduct in criminal investigations. In December 1989, SVPD Chief Boyce sent Klamser a Notice of Intended Disciplinary Action, which required him to submit to medical and psychological testing. Upon information and belief, certain Ventura County officials and employees—including the Ventura County District Attorney—were aware at that time of Bender's investigation and Klamser's growing reputation for unconstitutional conduct but took no action on Mr. Coley's case.

76. As part of Bender's efforts to reinvestigate the Wicht murders, he re-interviewed witnesses and jury members in September 1990. These interviews and his review of Klamser's case file established that Mr. Coley was innocent and that Klamser, in concert with Defendants, had framed him. Bender continued to inform Ventura County and Simi Valley officials about Klamser's misconduct, but his efforts were ignored or suppressed by County officials and employees. At that time, Ventura County District Attorney Michael Bradbury and several Ventura County Deputy District Attorneys and investigators were aware of Bender's efforts to free an innocent man. Not only did these Ventura County officials and employees not look into or assist Bender in his re-investigation, McGee went directly to Klamser, who by then had been promoted to Lieutenant, to warn him of Bender's efforts on September 13, 1990.

1 77. Without knowledge that the County was regularly discussing Mr.
2 Coley's case, in October and November of 1990, Bender sent letters to City Hall,
3 the City Manager, the Mayor, and the Attorney General informing them that
4 Klamser used unlawful means and deliberately discriminatory tactics to close cases
5 in Simi Valley. Bender continued to urge Ventura County and Simi Valley officials
6 to realize that false arrests and convictions had happened and were continuing to
7 happen because of Klamser's actions, and that Bender now had proof that Mr. Coley
8 was innocent.

9 78. All Bender asked for was an impartial investigation into Klamser's
10 unlawful behavior, but despite his evidence and Klamser's infamous reputation, no
11 Ventura County official took any action. Ventura County also, yet again, failed to
12 provide Mr. Coley with the exonerating evidence and impeachment evidence
13 learned about after his conviction. Instead, Ventura County buried or otherwise
14 failed to act on this information, despite the crystal-clear evidence that Mr. Coley
15 was innocent or, at a minimum, that the prosecution and investigation should be
16 reopened.

17 79. Because Ventura County officials and employees had alerted SVPD to
18 Bender's re-investigation, on September 19, 1991, SVPD Chief Miller formally
19 ordered Bender to cease and desist with investigating the Wicht murders, Mr.
20 Coley's innocence, and Klamser's misconduct or face immediate suspension or
21 termination from the Simi Valley police force. By engaging in this conduct, Ventura
22 County and its officials and employees interfered with, hindered, undermined and
23 prevented Mr. Coley's ability establish his innocence and pursue legal remedies
24 available to him.

25 80. Ventura County's repeated failure to investigate Mr. Coley's innocence,
26 and its undermining and obstructing of his efforts to exonerate himself, were
27 intentional or in reckless disregard of their legal and constitutional obligation to
28 provide Mr. Coley with exculpatory evidence of his innocence rather than actively

1 suppressing that evidence. As a result, Mr. Coley remained in prison because
2 Ventura County refused to use the exculpatory and impeachment information
3 provided by Bender to secure his release.

4 81. At best, Ventura County's actions were negligent, reckless or indifferent
5 to Mr. Coley's safety and rights, and at the most they were intended to keep an
6 innocent man behind bars to protect the County's reputation—as evidenced by
7 County officials going immediately to Klamser and the SVPD to have Bender cease
8 his reinvestigation. Additionally, the failure of Ventura County to disclose extensive
9 information of Klamser's misconduct prevented Mr. Coley and his attorneys from
10 fully investigating and undermining the evidence Klamser had fabricated to convict
11 Mr. Coley of a double homicide.

12 82. On November 18, 1992, Klamser falsely arrested Paul Nolan (another
13 SVPD police officer), whom he knowingly framed. An investigation into this false
14 arrest finally led to Klamser's placement on administrative leave in February
15 1993—more than two years after Bender was threatened with termination and after
16 he ultimately was forced to leave the Department once the VCDAO alerted SVPD to
17 his efforts to prove Mr. Coley's innocence. Ventura County officials and employees
18 were aware of the false arrest of Nolan and Klamser's misconduct in that
19 investigation.

20 83. In February 1993, the Simi Valley Public Defender's Office filed a
21 complaint against Klamser for withholding exculpatory evidence and sought his
22 personnel file on the basis of his history of "falsely arresting people, writing false
23 reports, or withholding facts in investigations." Ventura County officials and
24 employees were aware of this complaint.

25 84. Once placed on leave, Klamser was evaluated by Dr. Green, a
26 psychiatrist hired by Simi Valley. On November 17, 1993, Dr. Green concluded that
27 Klamser was psychologically unfit to serve as a police officer due to pre-existing
28 personality disorders such as Paranoid Personality Disorder and Narcissistic

1 Personality Disorder. That month, Klamser was placed on an unpaid leave of
2 absence, ordered to surrender his pistol, ID, and badge, and SVPD personnel were
3 informed that he was not allowed on the premises without an escort. On June 30,
4 1994, SVPD notified Klamser that he was mentally incapacitated and forced him to
5 retire. SVPD not only knew that Klamser was “unfit” but also knew that Dr. Green’s
6 report concluded that he framed Paul Nolan, , pursued the conviction, and
7 deliberately used exculpatory facts to alert the alleged victim that police knew she
8 had been lying—the exact same tactics Bender had told Ventura County officials
9 Klamser employed against Mr. Coley in the murder investigation. Upon information
10 and belief, Ventura County officials and employees were aware of and/or involved
11 in SVPD’s evaluation and ultimate termination of Klamser.

12 85. Even after a retained expert found Klamser was, and always had been,
13 unfit to serve as a police officer, and that *every* case in which he had been involved
14 was potentially tainted, Ventura County did not advise persons (which it was legally
15 and constitutionally required to do), including Mr. Coley, that his conviction was
16 potentially tainted, nor did it take *any* steps to reinvestigate Mr. Coley’s case or to
17 look into the clear evidence of innocence in its possession. Instead, Ventura County
18 actively resisted requests to re-examine Mr. Coley’s prosecution for years. Ventura
19 County’s actions, errors, inactions, omissions, policies, and/or procedures resulted in
20 Mr. Coley’s inability to prove his innocence and secure his release.

21 86. Mr. Coley filed another habeas corpus petition on April 22, 1997, in the
22 Supreme Court of the State of California, but it was denied because Ventura County
23 suppressed the now mountains of evidence of Mr. Coley’s innocence and the
24 growing impeachment evidence against Klamser. Ventura County is liable for
25 failing to report or reveal that information to Mr. Coley, to his attorneys, or to the
26 post-conviction courts, which would have secured Mr. Coley’s release from his
27 horrific ordeal.
28

1 87. On November 15, 2009, Mr. Coley applied for clemency from the
2 Governor of California for the first time. Mr. Coley's application stated that he was
3 requesting clemency because of his wrongful conviction, that his legal means had
4 been thwarted due to evidence destruction, and that his ailing mother needed help.

5 88. Despite Ventura County's knowledge of Mr. Coley's petition for release
6 and its ability to aid in the process by turning over exculpatory evidence and
7 impeachment evidence regarding Klamser known to the County, Defendants once
8 again failed Mr. Coley by continuing to conceal exculpatory evidence regarding the
9 Wicht murders and Klamser's extensive misconduct, resulting in the denial of his
10 clemency application.

11 89. In direct response to Mr. Coley's clemency petition, Glen Kitzmann, the
12 Deputy Chief Investigator at the District Attorney of Ventura County's office, sent a
13 letter to the Board of Parole Hearings on January 20, 2010 stating:

14 Upon review of his application it was determined that Mr.
15 Coley is currently serving a life without the possibility of
16 parole sentence for murder from a 1978 case. We have also
17 been notified of a claim that potential problems may have
18 occurred during the investigation of the original case.

19 At this time, we are unable to support Mr. Coley's request
20 for clemency. We are conducting a review of the case to
21 determine the validity of the claim of problems in the
22 initial investigation that could affect the conviction. Upon
23 completion of that review we would be in a better position
24 to make a final determination as to Mr. Coley's request for
25 clemency.

26
27 90. Ventura County thus not only condoned but had its employee participate
28 in the sending of letters to the Board of Parole in connection with Mr. Coley's post-

1 conviction petitions, which letters contained disparaging and misleading statements
2 designed to ensure Mr. Coley would never be granted early release. It was not until
3 almost a year later on September 9, 2011, that the Deputy District Attorney notified
4 Bender that the Governor's office closed out Mr. Coley's clemency petition.

5 91. This means that, despite knowledge on the part of Ventura County
6 officials and the Ventura County District Attorney's Office about Klamser's
7 investigatory misconduct, his preexisting personality disorders, and his fabrication
8 and suppression of exculpatory evidence in Mr. Coley's case, and the role that
9 certain Defendants played in that misconduct, these Ventura County officials
10 claimed that further review was still necessary and then never completed that
11 review, instead failing to disclose and/or actively suppressing evidence directly
12 bearing on Mr. Coley's innocence that should have been considered by the parole
13 board in 2010-2011.

14 92. In addition to the denial of his clemency petition and while remaining in
15 jail for a crime he did not commit, that same year—in 2011—Mr. Coley's mother
16 passed away. Mr. Coley begged in his clemency application that his mother needed
17 help because of her ailing health, which Ventura County was further made aware of
18 through Bender's efforts. Because of Ventura County's continued withholding of
19 exculpatory evidence and its active endeavor to keep Mr. Coley behind bars, Mr.
20 Coley was not there by his mother's side when she needed him; he could not attend
21 her funeral, and he could not be there to bury her. Mr. Coley—an only child with no
22 children of his own—lost his last direct relative without any opportunity to say
23 goodbye. Losing his mother while in prison, on top of losing his father, deprived
24 Mr. Coley of the strongest familial relationship he had before prison and caused Mr.
25 Coley to suffer extreme and severe mental anguish, anxiety, shock, and
26 embarrassment because of the wrongful actions of Ventura County, its officials, and
27 employees.
28

1 93. At no point during or after Mr. Coley's applications for clemency did
2 any Ventura County official or employee come forward with the exculpatory
3 evidence known to them, including evidence that had been in their possession for
4 over a decade.

5 94. Ventura County officials and employees, in conjunction with Klamser
6 and other Simi Valley officers and officials not named herein, actively concealed
7 this and other exculpatory evidence with explicit notice that Mr. Coley's legal and
8 constitutional rights, including his right to use this evidence to prove his innocence
9 in a clemency application, would be violated.

10 **VIII. VENTURA COUNTY WITHHOLDS DNA EVIDENCE TO**
11 **WHICH MR. COLEY WAS ABSOLUTELY ENTITLED AND**
12 **WHICH WOULD HAVE EXONERATED HIM DECADES**
13 **EARLIER**

14 95. In 2000, the state of California passed Cal. Pen. Code § 1405 giving
15 convicted individuals a liberty interest in having evidence DNA-tested in order to
16 exonerate them. Under the statute, a convicted person's right to DNA evidence
17 became absolute: "Notwithstanding any other provision of law, the right to file a
18 motion for postconviction DNA testing provided by this section is absolute and shall
19 not be waived."

20 96. Pursuant to this statute, Mr. Coley filed a motion in 2002 requesting that
21 the physical and forensic evidence found at the scene of the Wicht murders be
22 tested, specifically, for DNA evidence. Mr. Coley's motion specified that this
23 evidence was most likely in the possession of the Ventura County Sheriff's Office.

24 97. Deputy District Attorney William Haney was assigned to respond to Mr.
25 Coley's DNA request. On March 3, 2003, he filed a response opposing Mr. Coley's
26 request on the basis that "the evidence at issue [was] no longer possessed by the
27 agencies," specifically the Ventura County Sheriff's Office and SVPD. DDA Haney
28 also informed Mr. Coley in his response that the original file from the District
Attorney's office was "lost" or destroyed without explanation.

1 98. When DDA Haney contacted the VCSO regarding the existence of any
2 physical and forensic evidence from the Wicht case, on information and belief,
3 VCSO Property Room Officer Sandra Vanni and DNA Lab Supervisor Shanin
4 Sullivan represented that they had conducted a thorough inventory of the VCSO and
5 discovered only very small reference blood stains—from Mr. Coley and victim
6 Donald Wicht—with no evidentiary value. Sullivan further represented that she had
7 found “the paperwork for the evidence that had been processed at that time,” yet still
8 was unable to locate any physical or forensic evidence.

9 99. DDA Haney responded to Mr. Coley’s request for DNA by stating that
10 the evidence was no longer in the County’s possession and that therefore the motion
11 to re-test evidence should be denied. Mr. Coley requested DNA testing on numerous
12 occasions from 2003 through 2017 but was told over and over again by Ventura
13 County that there was no forensic evidence to be tested.

14 100. But after the Governor ordered that Mr. Coley’s case be re-investigated
15 in 2016, the detective assigned to re-investigate the case was able to locate all the
16 crucial forensic evidence that had been sent by the VCSO to a private laboratory for
17 testing in 1979. It took that detective less than two days and a single phone call to
18 track down and locate this evidence—which had been stored by the same company
19 (under a new name), at the same address, with the same general contact information
20 since 1979. The forensic evidence he easily located included samples of semen
21 taken from the bedsheet found under Rhonda Wicht’s body, the samples taken from
22 the stained Mickey Mouse T-shirt belonging to Donald Wicht, and other key pieces
23 of forensic evidence that, once tested, exonerated Mr. Coley as the perpetrator of
24 these crimes.

25 101. Ventura County, including Ventura County employees DDA William
26 Haney, Shanin Sullivan, and Sandra Vanni, at best, failed to conduct even the most
27 minimal search for this evidence or, alternatively, intentionally misrepresented that
28 no such evidence could be located and/or was in its possession. In fact, the Ventura

1 County Crime Lab either possessed or knew the location of forensic evidence from
2 the Wicht murders capable of being tested, as that evidence had been stored in the
3 exact location it was sent to by the VCSO in 1979 for the past four decades. Had
4 Ventura County employees, including DDA William Haney, Shanin Sullivan, and
5 Sandra Vanni, actually looked for that evidence any of the numerous times the
6 information was requested after 2003, they would have found it. This reckless and
7 grossly negligent conduct on behalf of Ventura County is inexcusable and could
8 have easily been avoided had they not been actively trying to suppress evidence of
9 Mr. Coley's innocence for decades.

10 102. Ventura County and its employees and official's nonfeasance,
11 misfeasance, and failure to take the time to look for DNA evidence, despite Mr.
12 Coley's repeated requests and statutory entitled to that evidence, is outrageous and
13 grossly negligent. Ventura County's refusal to lift a finger to help Mr. Coley
14 establish his innocence through DNA testing, for over a decade, caused him to
15 continue to rot in prison until finally, in October of 2016, the Governor ordered that
16 Mr. Coley's case be re-investigated by the Board of Parole Hearings.

17 103. Mr. Coley lost fourteen more years of his life in prison because of
18 Ventura County and its employees and official's negligence and failure to act,
19 causing him countless mental and physical injuries and preventing him from caring
20 for his ailing mother and being present when she passed away.

21 104. Based upon Ventura County's repeated misrepresentations that there was
22 no forensic evidence to be tested, Mr. Coley's DNA testing requests were
23 consistently denied, and his ability to get relief for the crimes he did not commit was
24 again thwarted by Ventura County officials' actions and inactions. These intentional
25 misrepresentations and/or this reckless failure to search prohibited Mr. Coley from
26 securing his freedom throughout the 2000s, for which Ventura County and its
27 officials and agents are liable.
28

1 105. On December 9, 2013, Mr. Coley again applied for Clemency from the
2 Governor of California. Finally, in 2016, the Governor ordered a re-investigation of
3 the Wicht murders and Mr. Coley's innocence. After the Governor's 2016 order, the
4 Ventura County District Attorney's Office, the City of Simi Valley, and SVPD
5 submitted to a re-examination of the evidence against Mr. Coley, including
6 subjecting evidence from the crime scene to DNA testing. That DNA testing
7 demonstrated Mr. Coley's innocence, showing that key evidence used to convict Mr.
8 Coley did not have his DNA on it and instead had the DNA of other individuals.
9 The re-investigation also included a review of the thousands of pages of records, and
10 newly conducted interviews, which further supported Mr. Coley's innocence.

11 106. On information and belief, after the 2016 / 2017 testing of the samples of
12 the semen extracted from the sheet found under Rhonda Wicht's body, and the
13 blood and semen found on Donald Wicht's T-shirt, DNA results matched other
14 individuals who were initially suspects to the murders. Rather than pursue these
15 individuals as suspects and assess whether the forensic samples matched their blood
16 and semen, Klamser and the Defendant investigators either deliberately, with
17 reckless disregard or with deliberate indifference, ignored these individuals as
18 possible suspects at the time of the initial investigation. These actions were
19 consistent with their planting of evidence, manipulating witnesses' accounts of the
20 crime, and in furtherance of their malicious efforts to hold Mr. Coley responsible for
21 the murders regardless of the lack of evidence linking him to the crime, his law-
22 abiding history, and his complete alibi.

23 107. At the end of the re-investigation, the Ventura County District
24 Attorney's Office finally admitted that Mr. Coley was factually innocent.

25 108. On November 22, 2017, the Governor granted an incredibly rare full
26 pardon on the basis of Mr. Coley's factual innocence. The Governor noted that
27 "[t]he grace with which Mr. Coley has endured this lengthy and unjust incarceration
28 is extraordinary" and ordered him released from prison "immediately."

1 109. The grant of a pardon based on innocence by the Governor is an
2 extraordinary event. Few pardons are provided annually (normally under 200 out of
3 a prison population of well over 100,000 people), and virtually all pardons are for
4 people who have already served their sentence and led an exemplary post-prison
5 life; these are not pardons because they are found factually innocent.

6 110. On November 29, 2017, the Superior Court of the State of California for
7 the County of Ventura issued an order pursuant to Cal. Penal Code § 851.8 finding
8 Mr. Coley factually innocent of the Wicht murders. That same day, the Superior
9 Court issued another order vacating Mr. Coley's conviction pursuant to Cal. Penal
10 Code § 1473.7. The Ventura County District Attorney's Office joined in both
11 motions on that date.

12 111. Ventura County was aware of all of Mr. Coley's post-conviction
13 appeals, motions, petitions, and clemency applications and the basis for each of
14 them. However, the County failed to provide, concealed, suppressed, or destroyed
15 exculpatory evidence in connection with the wrongful investigation. Ventura County
16 officials and employees learned that Klamser's investigations were improper and
17 were presented information establishing that Mr. Coley was indeed innocent and
18 was being wrongfully imprisoned. Ventura County and its officials had legal and
19 constitutional duties to give Mr. Coley exculpatory and impeachment evidence in
20 their possession and to assist him in securing his early release. At best Ventura
21 County is liable for its inactions and nonfeasance in breaching its obligations to do
22 so, and at worst is liable for the actions of its officials and employees in actively
23 burying, concealing, and destroying the evidence of Mr. Coley's innocence causing
24 him to rot in prison for over thirty-nine years. Throughout his horrific ordeal,
25 officials at the Ventura County District Attorney and the Ventura County Sheriff's
26 Office failed in their supervisory capacities to expose and remedy the
27 unconstitutional conduct of their subordinates, about which they knew or should
28 have known.

1 112. Ventura County is legally responsible for not only the reputational
2 injuries that Mr. Coley suffered at the time of his conviction and the devastation at
3 his sentencing, but also for the discrete injuries that Mr. Coley sustained because of
4 his continued wrongful imprisonment and his inability to free himself despite the
5 fact that his innocence became obvious to Ventura County. Ventura County's
6 inaction and misfeasance was the direct and proximate cause of his continued
7 wrongful imprisonment for decades and the bodily injuries, mental anguish, mental
8 distress, sickness, disease, assaults and batteries, and other injuries that Mr. Coley
9 sustained from his exposure to prison conditions.

10 113. The discrete bodily and personal injuries which Mr. Coley sustained and
11 his civil rights—which were violated every day he was wrongfully imprisoned—
12 were the foreseeable consequences of Ventura County's misconduct, and these
13 numerous injuries (some life-threatening) were actually and proximately caused by
14 Ventura County's actions or the actions of those for whom Ventura County is liable.

15 114. With the blatant evidence of Klamser's misconduct, and the misconduct
16 of individual Defendants, in both Mr. Coley's case and others, Ventura County had
17 a legal obligation to reopen and reinvestigate Mr. Coley's conviction and to help
18 him secure his release through his post-conviction efforts (which they explicitly
19 knew about), but Ventura County officials and employees either concealed the
20 evidence or failed to act. Indeed, Ventura County actively resisted Bender's dogged
21 efforts to re-examine Mr. Coley's case for decades, until shortly before his ultimate
22 exoneration, and intentionally and/or recklessly failed for decades to locate and turn
23 over forensic evidence that would have conclusively proved Mr. Coley's innocence.

24 115. Indisputably, Ventura County is liable for its wrongful actions, and
25 Ventura County is liable for the bodily injuries, assaults and batteries, and numerous
26 other injuries Mr. Coley sustained in prison.

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IX. PARTICIPATION, STATE OF MIND, AND DAMAGES

116. All Defendants acted without authorization of law.

117. Each Defendant individually, jointly, and/or in concert and conspiracy participated in the violations alleged herein, or directed the violations alleged herein, or knew of the violations alleged herein and failed to act to prevent them. Each Defendant ratified, approved or acquiesced in the violations alleged herein.

118. As joint actors with joint obligations, each Defendant was and is responsible for the failures and omissions of the other.

119. Each Defendant acted individually, jointly and/or in concert with the other Defendants and others not named in violating Mr. Coley's rights.

120. Each Defendant acted with a deliberate indifference to, or reckless disregard for, or with negligence towards Mr. Coley's rights by fabricating inculpatory evidence, ignoring exculpatory evidence of which they were aware, and/or failing to conduct a constitutionally adequate investigation.

121. The individual Defendants named herein, in engaging in the acts described, were not acting in a prosecutorial capacity but in an investigatory, administrative or supervisory capacity.

122. As a direct and proximate result of the aforesaid acts, omissions, customs, practices, policies and decisions of the Defendants, Mr. Coley sustained the injurious events of his wrongful conviction, his sentencing to life imprisonment without parole, the denial of his multiple appeals, and numerous discrete bodily and mental injuries throughout his imprisonment. Throughout Mr. Coley's wrongful imprisonment, new and independent injuries were sustained for which the Defendants are directly responsible, including but not limited to: Mr. Coley's inability to grieve the loss of familial relations when his father died in 1988 and when his mother died in 2011; the denial of all Mr. Coley's habeas corpus petitions and appeals; and the destruction and/or suppression of evidence which could have

1 exonerated Mr. Coley and released him from his wrongful imprisonment decades
2 earlier.

3 123. As an actual and proximate result of thirty-nine years of confinement in
4 a prison cell and exposure to prison conditions, Mr. Coley also contracted a wide
5 range of painful, embarrassing, humiliating, and potentially deadly diseases,
6 including Bowen's disease, seborrheic keratosis, pityriasis lichenoides chronica,
7 focal lymphoid aggregates, and perivascular lymphocytic infiltrate, resulting in
8 constant rashes, swelling and itching of his skin, oozing sores and lesions, scarring,
9 and other infirmities. The extreme mental distress and anguish brought about by Mr.
10 Coley's wrongful imprisonment caused him to suffer from high blood pressure and
11 develop ulcers. Mr. Coley also suffered numerous other bodily injuries while
12 wrongfully incarcerated which were further exacerbated by poor conditions and
13 inadequate medical treatment, including head injuries, burning of his arms and legs
14 and infected blisters, laceration of his scalp, a morbidly enlarged prostate, a
15 meniscal tear, glaucoma, food poisoning resulting in vomiting and diarrhea, and
16 injuries to his face and legs. Notably, while incarcerated, Mr. Coley contracted
17 Hepatitis C. The poor conditions of his imprisonment and the inadequate treatment
18 provided caused Mr. Coley's Hepatitis C to progress, developing into fibrosis of the
19 liver and potentially cancer.

20 124. While imprisoned, Mr. Coley also sustained assaults, batteries, and other
21 injuries which nearly killed him. For instance, towards the end of 1980, Mr. Coley
22 was severely beaten by a group of prison neo-Nazis for his refusal to join their
23 group. In another event, Mr. Coley's teeth were knocked loose, and he was not
24 given adequate dental care in prison. As a result, he lost many teeth and sustained
25 incredible physical pain and embarrassment to this day. Ultimately, Mr. Coley had
26 to have all of his teeth removed and replaced by dental implants in a 16-hour
27 intensive surgery with a lengthy recovery time.
28

1 125. Whether or not Ventura County intended or expected an innocent man
2 would be convicted or sentenced to life or to inflict the injuries that Mr. Coley
3 sustained throughout his horrific ordeal (including during his arrest, prosecution,
4 conviction, sentencing, post-conviction filings and efforts to obtain DNA testing),
5 Ventura County—through its actions, errors, omissions, misfeasance, and
6 nonfeasance—is responsible for the great mental and physical pain, suffering,
7 anguish, fright, nervousness, anxiety, shock, humiliation, indignity, embarrassment,
8 harm to reputation, and apprehension which Mr. Coley sustained.

9 126. Throughout Mr. Coley's ordeal—including during his arrest,
10 prosecution, conviction, sentencing, post-conviction filings and efforts to obtain
11 DNA testing—Ventura County and the individual Defendants acted with deliberate
12 indifference, recklessness, or negligence in failing to provide Mr. Coley exculpatory
13 evidence or other evidence of his good character or that would actually or
14 potentially exonerate him, and instead deprived him of his rights and defamed him.

15 127. Due to the acts of the Defendants over decades, Mr. Coley has suffered
16 extreme and severe mental anguish as well as mental and physical pain and injury.
17 For such injuries, Mr. Coley will incur significant damages based on psychological
18 and medical care.

19 128. Additionally, as a result of Mr. Coley's wrongful incarceration, his long-
20 term cardiac health was compromised, he suffered and continues to suffer from
21 physical deformities and disabilities, and his worsening liver condition put him at
22 high risk of cirrhosis of the liver, resulting in a high risk for heart attacks, future
23 disability, cancer, and death.

24 129. As a further result of the conduct of each of these Defendants, Mr. Coley
25 has lost past and future earnings in an amount to be determined according to proof at
26 trial. Prior to his conviction, Mr. Coley was enlisted in the United States Navy and
27 then consistently employed after his honorable discharge. Due to his wrongful
28

1 incarceration, he lost all opportunities for educational and career advancement,
2 including the related loss of income for almost his entire adult life.

3 130. As a further result of the conduct of each of these Defendants, Mr. Coley
4 was deprived of familial relationships, including not being able to get married and
5 raise a family, care for his ailing parents, or attend their funerals.

6 131. These injuries and damages to Mr. Coley were foreseeable to Defendants
7 at the time of their acts and omissions.

8 132. Pursuant to California Government Code § 825(a), Defendants are
9 entitled to indemnification because their individual liability and acts of misconduct
10 arose from acts and/or omissions within the course and scope of their employment
11 with Ventura County.

12 133. The aforementioned acts of the Defendants were willful, wanton,
13 malicious, oppressive, in bad faith or done with reckless disregard or with deliberate
14 indifference or with gross negligence to Mr. Coley's constitutional rights, entitling
15 him to exemplary and punitive damages from each Defendant in an amount to be
16 proven at the trial of this matter.

17 134. By reason of the above described acts and omissions of Defendants, Mr.
18 Coley was required to retain an attorney to institute and prosecute the within action,
19 and to render legal assistance to Mr. Coley that he might vindicate the loss and
20 impairment of his rights, and by reason thereof, Mr. Coley requests payment by
21 Defendants of a reasonable sum for attorney's fees pursuant to 42 U.S.C. § 1988.

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X. FIRST CLAIM FOR RELIEF: 42 U.S.C. § 1983 CLAIM FOR DEPRIVATION OF DUE PROCESS OF LAW AND VIOLATION OF RIGHT TO A FAIR TRIAL UNDER THE FOURTEENTH AMENDMENT

Against Individual Defendants Estate of Frederick Jones, Henderson, Vasquez, Fort, Taylor, Schwarz, Sullivan, Vanni, Haney, and Does 1-10

135. Plaintiff realleges all the foregoing and any subsequent paragraphs contained in the complaint, as if fully set forth herein.

136. Defendants, acting individually and in concert with each other and/or with Klamser and others not named herein, fabricated false evidence, suppressed or destroyed exculpatory evidence, failed to investigate in a manner that shocks the conscience, and instead followed through with the unlawful prosecution of Mr. Coley, thereby violating Mr. Coley's right not to be deprived of liberty without due process of law.

137. The false evidence asserted herein is comprised of material omissions as well as affirmatively false and misleading statements in police reports, documents, and testimony prepared or given in connection with the investigation of the Wicht murders.

138. Defendants' misconduct, acting individually and/or in concert with Klamser and others not named herein, further includes but is not limited to the planting of physical evidence and false oral and written reports made to cover up the planting of that evidence.

139. Defendants' misconduct, acting individually and/or in concert with Klamser and others not named herein, further includes but is not limited to destroying and/or suppressing exculpatory and potentially exculpatory evidence.

140. Defendants' misconduct, acting individually and/or in concert with Klamser and others not named herein, further includes but is not limited to reckless investigatory misconduct such as disregarding clear information incriminating more

1 obvious suspects like Bowyer, Ireton, and Mobley, all of whom spent time with the
2 victims just prior to their murders and were connected to the murder scene via
3 forensic evidence including fingerprints, public hairs, and semen, and all of whom
4 had no alibis at the time of the murders.

5 141. Each Defendant knew or should have known the evidence was false, and
6 the Defendants' conduct was intentional and knowing, or alternatively done with
7 deliberate indifference to and/or reckless disregard for Plaintiff's rights or for the
8 truth.

9 142. Defendants' misconduct did not cease with Mr. Coley's conviction but
10 continued through his exoneration, thereby prolonging his wrongful incarceration.

11 143. The constitutional source against using false evidence is primarily the
12 due process clause of the Fifth and Fourteenth Amendments, and Plaintiff's due
13 process rights were violated by the conduct alleged herein. Plaintiff brings this claim
14 as both a procedural and a substantive due process violation. To the extent that any
15 court were to conclude that the source of Plaintiff's right to not have false evidence
16 used against him is any constitutional source other than due process (such as the
17 Fourth Amendment), this claim is brought on those bases as well.

18 144. The claim against the County of Ventura contained in Claim #6 for
19 *Monell* liability specifically incorporates within the deficient policies, custom and
20 practice alleged in Claim #6 the allegations of this Claim.

21 145. Defendants were each jointly and severally responsible to not use false
22 evidence against Mr. Coley. Each engaged in, knew or should have known of the
23 unconstitutional conduct alleged herein and failed to prevent it, which each had a
24 responsibility to do, and each ratified, approved or acquiesced in it.

25 146. As a direct and proximate result of Defendants' actions, Mr. Coley was
26 wrongly arrested, detained, prosecuted, convicted, and incarcerated for more than
27 thirty-nine years and suffered other grievous injuries and damages set forth above.
28

1 147. Because these claims necessarily imply the invalidity of Mr. Coley's
2 murder conviction, they were barred until Mr. Coley's conviction was vacated by
3 the Ventura County Superior Court on November 29, 2017. *Heck v. Humphrey*, 512
4 U.S. 477 (1994).

5 **XI. SECOND CLAIM FOR RELIEF: 42 U.S.C. § 1983 CIVIL RIGHTS**
6 **CONSPIRACY CLAIM**

7 *Against Individual Defendants Estate of Frederick Jones, Henderson,*
8 *Vasquez, Fort, Taylor, Schwarz, and Does 1-10*

9 148. Plaintiff realleges all the foregoing and any subsequent paragraphs
10 contained in the complaint, as if fully set forth herein.

11 149. Defendants and other not named herein, including Klamser, agreed
12 among themselves to act in concert to deprive Mr. Coley of his clearly established
13 constitutional rights as protected by the Fourth, Fifth, and Fourteenth Amendments,
14 including his right to be free from illegal seizure.

15 150. As described above, in furtherance of the conspiracy, Defendants
16 engaged in and facilitated numerous overt acts in furtherance of the conspiracy,
17 including but not limited to the following:

- 18 a. acting in concert to plant false inculpatory evidence and produce false
19 written and oral reports to cover up this misconduct;
- 20 b. acting in concert to suggest, coerce, and/or fabricate statements regarding
21 the time of the crime from Glenn Watkins;
- 22 c. acting in concert to suggest, coerce, and/or fabricate an identification of
23 Mr. Coley's vehicle by witness Debbie Villafrancas;
- 24 d. acting in concert to suggest, coerce, and/or fabricate false inculpatory
25 statements by Bonnie Castillo;
- 26 e. acting in concert to conceal, suppress, and/or destroy exculpatory
27 evidence, including physical and forensic evidence; and
28

1 f. acting in concert to suppress, withhold, or otherwise fail to investigate
2 evidence inculcating other more likely suspects without alibis.

3 151. The claim against the County of Ventura contained in Claim #6 for
4 *Monell* liability specifically incorporates within the deficient policies, custom and
5 practice alleged in Claim #6 the allegations of this Claim.

6 152. As a direct and proximate result of Defendants' overt acts, Mr. Coley
7 was deprived of his constitutional rights; wrongly prosecuted, detained, and
8 incarcerated for over thirty-nine years; and subjected to other grievous injuries and
9 damages set forth above.

10 153. Because these claims necessarily imply the invalidity of Mr. Coley's
11 murder conviction, they were barred until Mr. Coley's conviction was vacated by
12 the Ventura County Superior Court on November 29, 2017. *Heck v. Humphrey*, 512
13 U.S. 477 (1994).

14 **XII. THIRD CLAIM FOR RELIEF: 42 U.S.C. § 1983 CLAIM**
15 **PURSUANT TO *BRADY*, *GARCIA*, AND *MOODY* FOR**
16 **FAILURE TO DISCLOSE MATERIAL EXCULPATORY**
17 **EVIDENCE**

18 *Against Individual Defendants Henderson, Vasquez, Fort, Taylor,*
19 *Schwarz, Sullivan, Vanni, Haney, and Does 1-10*

20 154. Plaintiff realleges all the foregoing and any subsequent paragraphs
21 contained in the complaint, as if fully set forth herein.

22 155. Defendants, while acting under color of law, deprived Plaintiff of his
23 civil rights by violating his right to material exculpatory evidence and information
24 as required by *Brady v. Maryland*, 373 U.S. 83 (1963) (hereafter *Brady*
25 information), *People v. Garcia*, 17 Cal. App. 4th 1169 (1992) (hereafter *Garcia*
26 information), and *Tatum v. Moody*, 768 F.3d 806 (9th Cir. 2014) (hereafter *Moody*
27 information).

28 156. Pursuant to *Brady*, *Garcia*, and *Moody*, Defendants failed to disclose
exculpatory evidence to the prosecutors handling Mr. Coley's case and/or to turn

1 over exculpatory evidence to Mr. Coley's defense attorneys, the conviction court,
2 the sentencing court, the court of appeals or post-conviction court so that it could be
3 used to prove Mr. Coley innocence or secure his release from his wrongful
4 imprisonment, including exculpatory evidence that was known at the time of trial
5 and sentencing and new exculpatory evidence discovered after Mr. Coley's
6 wrongful conviction and the event of his sentencing.

7 157. This failure to disclose exculpatory evidence encompassed not only the
8 pretrial and trial period, but the period after Mr. Coley's conviction, including the
9 period of the appeal and Mr. Coley's post-conviction efforts to exonerate himself or
10 find exculpatory evidence he could use for that purpose.

11 158. The actions of each Defendant, acting individually and/or in concert, in
12 withholding evidence were done with deliberate indifference to or reckless disregard
13 for Plaintiff's rights or for the truth.

14 159. The constitutional source of the obligation to provide *Brady*, *Garcia*,
15 and *Moody* information is primarily the due process clause of the Fifth and
16 Fourteenth Amendments, and Plaintiff's due process rights were violated by the
17 conduct alleged herein. Plaintiff brings this claim as both a procedural and a
18 substantive due process violation. To the extent that any court were to conclude that
19 the source of Plaintiff's right to such exculpatory information is any constitutional
20 source other than due process (such as the Fourth Amendment), this claim is brought
21 on those bases as well.

22 160. Defendants were each jointly and severally responsible to provide
23 *Brady*, *Garcia*, and *Moody* information to the prosecutors handling Mr. Coley's case
24 so that it could in turn be provided to Mr. Coley's defense team. Each engaged in,
25 knew or should have known of the unconstitutional conduct alleged herein and
26 failed to prevent it, which each had a responsibility to do, and each ratified,
27 approved or acquiesced in it.
28

1 161. The claim against the County of Ventura contained in Claim #6 for
2 *Monell* liability specifically incorporates within the deficient policies, custom and
3 practice alleged in Claim #6 the allegations of this Claim.

4 162. As a direct and proximate result of Defendants' conduct, Mr. Coley was
5 wrongly incarcerated for over 39 years and subjected to other grievous injuries and
6 damages set forth above.

7 163. Because these claims necessarily imply the invalidity of Mr. Coley's
8 murder conviction, they were barred until Mr. Coley's conviction was vacated by
9 the Ventura County Superior Court on November 29, 2017. *Heck v. Humphrey*, 512
10 U.S. 477 (1994).

11 **XIII. FOURTH CLAIM FOR RELIEF: 42 U.S.C. § 1983 CLAIM FOR**
12 **POST-TRIAL SUPPRESSION OF EXCULPATORY EVIDENCE**

13 *Against Individual Defendants Vanni, Sullivan, Haney,*
14 *and Does 1-10*

15 164. Plaintiff realleges all the foregoing and any subsequent paragraphs
16 contained in the complaint, as if fully set forth herein.

17 165. From 2003-2016, Defendants with reckless disregard or deliberate
18 indifference to Mr. Coley's rights, withheld material exculpatory evidence by
19 intentionally and/or recklessly misrepresenting that forensic evidence capable of
20 testing no longer existed.

21 166. Mr. Coley had a liberty interest in proving his innocence, including
22 through newly discovered exculpatory evidence.

23 167. The Ventura County District Attorney's Office and its employees,
24 including DDA Haney, and the Ventura County Sheriff's Office and its employees,
25 including Vanni, Sullivan and Haney, were aware of and had responsibility in some
26 form to respond to Mr. Coley's request in 2003 for DNA testing. In response to that
27 request, Mr. Coley was told that all forensic evidence had been destroyed. This was
28 false. In fact, that evidence was available, but Defendants affirmatively

1 misrepresented and/or recklessly failed to conduct a proper search that would have
2 resulted in the disclosure of said evidence.

3 168. Defendants' misconduct deprived Mr. Coley of powerful new evidence
4 of innocence under Cal. Pen. Code §1405 that he did not have until its belated
5 disclosure in 2017. With that critical evidence, an earlier motion for post-conviction
6 relief would have been successful and freed Mr. Coley from prison.

7 169. Defendants' misconduct deprived Mr. Coley of his liberty without due
8 process of law and deprived Mr. Coley access to the courts in violation of the
9 Fourteenth Amendment to the United States Constitution.

10 170. The claim against the County of Ventura contained in Claim #6 for
11 *Monell* liability specifically incorporates within the deficient policies, custom and
12 practice alleged in Claim #6 the allegations of this Claim.

13 171. As a direct result of Defendants' misconduct, Mr. Coley's incarceration
14 was wrongfully extended, and Mr. Coley suffered physical, emotional, and
15 pecuniary damages.

16 172. Because these claims necessarily imply the invalidity of Mr. Coley's
17 murder conviction, they were barred until Mr. Coley's conviction was vacated by
18 the Ventura County Superior Court on November 29, 2017. *Heck v. Humphrey*, 512
19 U.S. 477 (1994).

20 **XIV. FIFTH CLAIM FOR RELIEF: 42 U.S.C. § 1983 SUPERVISORY
21 LIABILITY CLAIM**

22 *Against Ventura County and Does 1-10*

23 173. Plaintiff realleges all the foregoing and any subsequent paragraphs
24 contained in the complaint, as if fully set forth herein.

25 174. Defendant Ventura County while acting under color of law, failed to
26 provide reasonable security, monitoring, training and supervision of his employees,
27 in particular of their investigators and criminologists in proper investigative
28 techniques and the constitutional requirements for such investigations.

1 175. Defendant Ventura County and Does 1-10, while acting under color of
2 law, knew, or in the exercise of reasonable care, should have known of a history and
3 propensity and pattern at the time of this incident for Defendant Klamser to engage
4 in the unconstitutional conduct enumerated above, including fabricating evidence,
5 withholding exculpatory evidence, manipulating witnesses and otherwise violating
6 the rights of criminal suspects of Defendants. Defendants took no action to prevent
7 this unconstitutional conduct.

8 176. Defendants' disregard of this knowledge or failure to adequately
9 investigate and discover and correct such acts or failures to act was a moving force
10 which caused the violation of Mr. Coley's constitutional rights.

11 177. Defendants knew, or in the exercise of reasonable care should have
12 known, of a pattern or practice of unconstitutional violations, or the existence of
13 facts which create the potential of unconstitutional acts, and these Defendants
14 (including Ventura County) had a duty to train and instruct their subordinates to
15 prevent similar acts but failed to take steps to properly train, supervise, investigate
16 or instruct their agents or employees.

17 178. The claim against the County of Ventura contained in Claim #6 for
18 *Monell* liability specifically incorporates within the deficient policies, custom and
19 practice alleged in Claim #6 the allegations of this Claim.

20 179. As a direct and proximate result of the conduct of Ventura County and
21 Does 1-10, as described above, Mr. Coley suffered constitutional deprivations and
22 grievous personal injuries and damages described above.

23 180. Because these claims necessarily imply the invalidity of Mr. Coley's
24 murder conviction, they were barred until Mr. Coley's conviction was vacated by
25 the Ventura County Superior Court on November 29, 2017. *Heck v. Humphrey*, 512
26 U.S. 477 (1994).

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1 **XV. SIXTH CLAIM FOR RELIEF: 42 U.S.C. §1983 *MONELL***
2 **CLAIM FOR VIOLATIONS ARISING FROM A**
3 **POLICY/CUSTOM OF FAILING TO PRESERVE AND**
4 **DISCLOSE EXCULPATORY EVIDENCE, FABRICATING**
5 **EVIDENCE, FAILING TO TRAIN AND SUPERVISE**
6 **REGARDING THE PRESERVATION AND DISCLOSURE OF**
7 **EVIDENCE IN HOMICIDE INVESTIGATIONS**

8 *Against Defendant Ventura County*

9 181. Plaintiff realleges all the foregoing and any subsequent paragraphs
10 contained in the complaint, as if fully set forth herein.

11 182. Plaintiff is informed and believes and thereon alleges that, during all or
12 portions of the period relevant to this case (1978 to 2017), Defendant County of
13 Ventura, by and through the Ventura County District Attorney's Office, with
14 deliberate indifference, and conscious and reckless disregard to the safety, security
15 and constitutional and statutory rights of criminal suspects and defendants, including
16 Plaintiff, had a) no established or clear administrative system in place, b) no stated,
17 written or adequate policies, and c) no or inadequate training and supervisions
18 regarding, *inter alia*, the following issues:

- 19 a. Ensuring that any police department or police officers with
20 which the District Attorney's Office was working provided all
21 exculpatory evidence gathered during an investigation of a case
22 presented to the District Attorney's Office for prosecution, as
23 numerous cases over the years made clear was its obligation.
- 24 b. Ensuring that any police department or police officers with
25 which the District Attorney's Office was working provided its
26 full investigative material and that material is actually reviewed
27 by an appropriate Deputy DA.
- 28 c. Ensuring that exculpatory evidence was not buried in files
 provided to the trial attorney handling the case by the police

1 department or police officers with which the District Attorney's
2 Office was working, and/or by members of its Office.

- 3 d. Ensuring that the police department or police officers with which
4 the District Attorney's Office was working provided to the trial
5 attorney prosecuting that case full and complete reports of any
6 benefits (including but not limited to benefits in the form of
7 monetary or other pecuniary benefits and leniency in other
8 charges) provided to any witness, and/or that such information
9 was disclosed to the defense.
- 10 e. Ensuring that any benefits or monies paid to or for the benefit of
11 witnesses was both known to the relevant people in the District
12 Attorney's Office, including the attorney assigned to try the case,
13 and/or disclosed to the defense.
- 14 f. Ensuring that false evidence was not being presented or relied
15 upon by Deputy District Attorneys in prosecuting cases.
- 16 g. Ensuring that the key police reports and other key case
17 documents provided full and complete descriptions of witness
18 interactions and called attention to any irregularities, deviations
19 from policy or evidence favorable to the defense.
- 20 h. Ensuring that exculpatory evidence learned or discovered after
21 trial and conviction (including between trial and sentencing and
22 after sentencing) was disclosed to defendants and their counsel.
- 23 i. Ensuring that exculpatory information known to Deputy District
24 Attorneys would be identified, organized and maintained for
25 production to the California Attorney General's Office for
26 litigation in subsequent post-trial habeas and appellate
27 proceedings.
28

- 1 j. Establishing procedures or systems to track or identify known
- 2 false witness statements or other known facts that would make
- 3 them unsuitable as witnesses in other cases or would be
- 4 exculpatory evidence undermining their credibility if they were
- 5 used as witnesses.
- 6 k. Ensuring that policies, procedures, systems, training and
- 7 supervision were in place to ensure that the rights of convicted
- 8 individuals to test physical evidence for DNA evidence pursuant
- 9 to Cal. Pen. Code §1405 existed and were properly implemented.
- 10 l. Failing to discipline personnel involved in dishonesty,
- 11 particularly in enabling, encouraging, condoning or presenting
- 12 false testimony that was known or should have been known to be
- 13 false or that was utilized with a reckless disregard for, or
- 14 deliberate indifference towards, the truth and the rights of the
- 15 accused.
- 16 m. Establishing procedures so all exculpatory/impeachment
- 17 evidence discovered by law enforcement or the DA after the
- 18 preliminary hearing stage is provided to the defense.
- 19 n. Establishing procedures so all exculpatory/impeachment
- 20 evidence discovered by law enforcement or the DA after a
- 21 conviction is provided to the defense.

22 183. Defendant County of Ventura, by and through the Ventura District
23 Attorney's Office, had the habit, custom, pattern and practice, during all or parts of
24 the relevant time period (1978 to the present) of:

- 25 a. Failing to identify or disclose exculpatory evidence or false
- 26 evidence, particularly regarding Detective Klamser's conduct to
- 27 withhold exculpatory evidence and to falsify evidence, as
- 28 previously alleged.

- b. Failing to locate physical evidence for DNA testing to which convicted inmates were entitled under Cal. Pen. Code §1405.
- c. Entering into benefits agreements with key witnesses without disclosing them to the defense, and/or failing to identify and disclose such agreements.
- d. Improperly influencing eyewitness identifications by manipulation of witness or providing undisclosed benefits to them.

184. The customs, policies, practices, failures, actions and inactions of the Ventura District Attorney's Office elaborated above were or should have been known to the policy makers responsible for the Ventura District Attorney's Office and occurred with deliberate indifference to either the recurring constitutional violations elaborated above, and/or to the strong likelihood that constitutional rights would be violated as a result of failing to adopt and implement systems, policies, training, supervision or discipline in areas where the need for such things to occur was obvious. Given the long and recurring history elaborated above, the Ventura District Attorney's Office and its policy makers were on notice of these deficiencies and failures.

185. The customs, policies, practices, failures, actions and inactions of the Ventura District Attorney's Office elaborated above were so closely related to the deprivation of Mr. Coley's rights as to be a moving force that caused the constitutional violations alleged herein.

186. As a direct and proximate result of Defendant County of Ventura's acts and omissions, condoning, encouraging, ratifying and deliberately ignoring the pattern and practice of district attorney's acts and omissions alleged above, Mr. Coley sustained injury and damage to be proved at trial.

187. Because these claims necessarily imply the invalidity of Mr. Coley's murder conviction, they were barred until Mr. Coley's conviction was invalidated

1 by the Ventura County Superior Court on November 29, 2017. *Heck v. Humphrey*,
2 512 U.S. 477 (1994).

3 **XVI. SEVENTH CLAIM FOR RELIEF: NEGLIGENT**
4 **SUPPRESSION/WITHHOLDING OF EVIDENCE**

5 *Against Individual Defendants Estate of Frederick Jones,*
6 *Henderson, Vasquez, Fort, Taylor, Schwarz, Sullivan, Vanni, Haney*
7 *and Does 1-10*

8 188. Plaintiff realleges all the foregoing and any subsequent paragraphs
9 contained in the complaint, as if fully set forth herein.

10 189. Defendants had ongoing legal, constitutional, and statutory duties that
11 obligated them to preserve, not destroy, and turn over evidence to Mr. Coley,
12 including DNA evidence requested by Mr. Coley. Under California State law, in
13 particular, Ventura County violated California Government Code § 815.6 through its
14 patently negligent “search” for the physical evidence Mr. Coley requested for DNA
15 testing. Under § 815.6, an entity has direct liability where it is under a mandatory
16 duty imposed by an enactment that is designed to protect against the risk of a
17 particular kind of injury and it fails to discharge that duty with reasonable diligence.

18 190. Defendants had explicit notice of the numerous motions, post-conviction
19 petitions, and requests for information and physical evidence made by Mr. Coley
20 and others. By taking no or insufficient actions despite the ever-growing mountain
21 of evidence that proved that Mr. Coley was actually innocent and was being
22 wrongfully imprisoned, Ventura County is liable for negligence or gross negligence.
23 Ventura County is likewise liable for negligence or gross negligence for its
24 misrepresentations to Mr. Coley that there was no DNA evidence available to retest.
25 Ventura County indisputably failed to exercise reasonable diligence in its search for
26 the evidence requested by Mr. Coley.

27 191. As a direct and proximate cause of Defendants recurring failure to come
28 forward with exonerating evidence in their possession, Mr. Coley suffered exposure
to prison conditions and avoidable physical, mental, and pecuniary injuries, for

1 which Ventura County is liable. Absent such negligence/gross negligence, Mr.
2 Coley would have been able to establish both the violation of his rights and his
3 innocence years earlier and would have been released from custody many years
4 earlier than he was.

5 192. Because these claims necessarily imply the invalidity of Mr. Coley's
6 murder conviction, they were barred until Mr. Coley's conviction was vacated by
7 the Ventura County Superior Court on November 29, 2017. *Yount v. City of*
8 *Sacramento*, 43 Cal. 4th 885, 902, 183 P.3d 471, 484 (Cal. 2008).

9 **XVII. EIGHTH CLAIM FOR RELIEF: CLAIM UNDER CALIFORNIA**
10 **CODE § 815.2 FOR RESPONDEAT SUPERIOR AND**
11 **VICARIOUS LIABILITY INCLUDING FOR NEGLIGENT**
12 **SUPERVISION AND TRAINING**

13 *Against Defendant Ventura County and Does 1-10*

14 193. Plaintiff realleges all the foregoing and any subsequent paragraphs
15 contained in the complaint, as if fully set forth herein.

16 194. California state law provides that public entities are directed to pay any
17 tort judgment for any claim or action against an employee of the public entity for an
18 injury arising out of an act or omission occurring within the scope of his or her
19 employment.

20 195. Defendants are or were employees of Ventura County, and acted
21 within the scope of their employment in committing the acts and omissions
22 described herein.

23 196. Supervisory Defendants named herein, and other supervisory personnel
24 whose identities are not currently known, had a duty to ensure that law enforcement
25 and prosecutorial personnel under their supervision conducted criminal
26 investigations and prosecutions in a manner that complied with constitutional
27 protections for those facing criminal charges, including the right to a fair trial and to
28 the proper preservation, tracking and location of evidence, including actual or
potential exculpatory evidence. Supervisory Defendants named herein, and other

1 supervisory personnel whose identities are not currently known failed to properly
2 supervise and train employees in (a) ensuring that exculpatory evidence is provided
3 and disclosed to those facing criminal charges, (b) in ensuring that false evidence is
4 not used in any investigation or prosecution, (c) in locating evidence to which
5 individuals are entitled for purposes of DNA testing under Cal. Pen. Code §1405,
6 and (d) otherwise complying with their responsibilities as set forth in the Seventh
7 Claim for Relief. Defendant Ventura County has respondeat superior liability for all
8 such failures to supervise and train. It was at all times reasonably foreseeable that
9 such failures to train and supervise would result in the violation of criminal
10 defendants' right to a fair trial and the prosecution and conviction of innocent
11 persons for crimes they did not commit.

12 197. Defendant Ventura County is legally obligated to pay any judgment
13 entered against Defendant Officers.

14 198. Because these claims necessarily imply the invalidity of Mr. Coley's
15 murder conviction, they were barred until Mr. Coley's conviction was vacated by
16 the Ventura County Superior Court on November 29, 2017. *Yount v. City of*
17 *Sacramento*, 43 Cal. 4th 885, 902, 183 P.3d 471, 484 (Cal. 2008).

18 **XVIII. NINTH CLAIM FOR RELIEF: CLAIM UNDER CALIFORNIA**
19 **CODE § 52.1**

20 *Against Ventura County, All Individual Defendants,*
21 *and Does 1-10*

22 199. Plaintiff realleges all the foregoing and any subsequent paragraphs
23 contained in the complaint, as if fully set forth herein.

24 200. Defendants interfered or attempted to interfere with Mr. Coley's rights
25 secured by the United States and California constitution and laws, including through
26 the use of threats, intimidation, or coercion.

27 201. As a direct and proximate cause of Defendants recurring failure to come
28 forward with exonerating evidence in their possession, Mr. Coley suffered exposure

1 to prison conditions and avoidable physical, mental, and pecuniary injuries, for
2 which Ventura County is liable.

3 202. Because these claims necessarily imply the invalidity of Mr. Coley's
4 murder conviction, they were barred until Mr. Coley's conviction was vacated by
5 the Ventura County Superior Court on November 29, 2017. *Yount v. City of*
6 *Sacramento*, 43 Cal. 4th 885, 902, 183 P.3d 471, 484 (Cal. 2008).

7 **XIX. PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff, Craig Coley requests relief on his own behalf as
9 follows, and according to proof, against each Defendant:

- 10 1. General and compensatory damages in an amount according to proof;
- 11 2. Special damages in an amount according to proof;
- 12 3. Exemplary and punitive damages against each Defendant in an amount
13 according to proof that will deter such conduct by Defendants in the future;
- 14 4. Costs of suit, including attorneys' fees, under 42 U.S.C. §1988; and,
- 15 5. Such other relief as may be warranted or as is just and proper.

16 DATED: July 19, 2019

Respectfully submitted,

18 KAYE, McLANE, BEDNARSKI &
19 LITT, LLP

20 By: /s/ Barrett S. Litt

21
22 BARRETT S. LITT
23 RONALD O. KAYE
24 LINDSAY BATTLES

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26 Craig Coley
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Attorneys for Plaintiff
Craig Coley

JURY DEMAND

Trial by jury of all issues is demanded.

DATED: July 19, 2019

Respectfully submitted,

KAYE, McLANE, BEDNARSKI &
LITT, LLP

By: / s / Barrett S. Litt

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